

STATE OF HAWAII - DEPARTMENT OF TAXATION
INSTRUCTIONS FOR FORM N-344
IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT

GENERAL INSTRUCTIONS

Note: If you are claiming the Ethanol Facility Tax Credit, no other credit can be claimed for the same taxable year.

Section 235-110.93, Hawaii Revised Statutes (HRS), provides that for taxable years beginning after May 31, 2009, each taxpayer who incurs qualified agricultural costs may claim a refundable important agricultural land qualified agricultural cost tax credit for the taxable year in which the credit is properly claimed. The amount of the credit is:

- (1) In the first year in which the credit is claimed, the lesser of the following:
 - (A) 25% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008, or
 - (B) \$625,000;
- (2) In the second year in which the credit is claimed, the lesser of the following:
 - (A) 15% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008, or
 - (B) \$250,000; and
- (3) In the third year in which the credit is claimed, the lesser of the following:
 - (A) 10% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008, or
 - (B) \$125,000.

The taxpayer may incur qualified agricultural costs during a taxable year in anticipation of claiming the credit in future taxable years during which the credit is available. The taxpayer may claim the credit in any taxable year after the taxable year during which the taxpayer incurred the qualified agricultural costs upon which the credit is claimed. The taxpayer also may claim the credit in consecutive or inconsecutive taxable years until exhausted.

No tax credit shall be allowed for that portion of the qualified agricultural costs for which another tax credit or deduction was claimed under Hawaii's Income Tax Law for the taxable year.

The amount of the qualified agricultural costs eligible to be claimed shall be reduced by the amount of funds received by the taxpayer during the taxable year from the irrigation repair and maintenance special fund under section 167-24, HRS.

If a deduction is taken under Internal Revenue Code (IRC) section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for that portion of the qualified agricultural costs for which the IRC section 179 deduction was taken.

The basis of eligible property for depreciation or accelerated cost recovery system (ACRS) purposes for State income taxes shall be reduced by the amount of the tax credit that is allowable and claimed.

The qualified agricultural costs upon which the tax credit is computed is determined at the entity level. In the case of a partnership, S corporation, estate, trust, or other pass-through entity, distribution and share of the credit shall be determined pursuant to section 235-110.7(a), HRS.

Tax credit to be deducted from income tax liability, if any; refunds. If the credit exceeds the taxpayer's net income tax liability for the taxable year, the excess of the credit over liability shall be refunded to the taxpayer; provided that no refunds or payments on account of the credits shall be made for amounts less than \$1.

Time for filing. All claims for a tax credit, including amended claims, shall be filed on or before the end of the 12th month following the close of the taxable year for which the credit is claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

Recapture of tax credit. Any credit already claimed for a taxable year will be recaptured if the taxpayer does not submit the certified written statement to the Department of Agriculture by the last day of the taxable year following the close of the taxpayer's taxable year in which the credit is claimed. The amount of the recaptured tax credit shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs. For more information, see INFORMATION REPORTING REQUIREMENTS FOR THE TAXPAYER CLAIMING THE CREDIT.

Definitions. For purposes of the important agricultural land qualified agricultural cost tax credit:

"Agricultural business" means any person with a commercial agricultural, silvicultural, or aquacultural facility or operation, including:

- (1) The care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses;
- (2) The planting, cultivating, harvesting, and processing of crops; and
- (3) The farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment;

provided that the principal place of the agricultural business is maintained in the State and more than fifty per cent of the land the agricultural business owns or leases, excluding land classified as conservation land, is important agricultural land.

"Important agricultural lands" means lands identified and designated as important agricultural lands pursuant to part III of chapter 205, HRS.

"Net income tax liability" means income tax liability reduced by all other credits allowed under Hawaii's Income Tax Law.

"Qualified agricultural costs" means expenditures for:

- (1) The plans, design, engineering, construction, renovation, repair, maintenance, and equipment for:
 - (A) Roads or utilities, primarily for agricultural purposes, where the majority of the lands serviced by the roads or utilities, excluding lands classified as conservation lands, are important agricultural lands;
 - (B) Agricultural processing facilities in the State, primarily for agricultural purposes, where the majority of the crops or livestock processed, harvested, treated, washed, handled, or packaged are from agricultural businesses;
 - (C) Water wells, reservoirs, dams, water storage facilities, water pipelines, ditches, or irrigation systems in the State, primarily for agricultural purposes, providing water for lands, the majority of which, excluding lands classified as conservation lands, are important agricultural lands; and
 - (D) Agricultural housing in the State, exclusively for agricultural purposes; provided that:
 - (i) The housing units are occupied solely by farmers or employees for agricultural businesses and their immediate family members;
 - (ii) The housing units are owned by the agricultural business;
 - (iii) The housing units are in the general vicinity, as determined by the Department of Agriculture, of agricultural lands owned or leased by the agricultural business; and
 - (iv) The housing units conform to any other conditions that may be required by the department of agriculture;
- (2) Feasibility studies, regulatory processing, and legal and accounting services related to the items under paragraph (1);
- (3) Equipment, primarily for agricultural purposes, used to cultivate, grow, harvest, or process agricultural products by an agricultural business; and
- (4) Regulatory processing, studies, and legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on lands identified as important agricultural lands.

INFORMATION REPORTING REQUIREMENTS FOR THE TAXPAYER CLAIMING THE CREDIT

The Department of Agriculture, in consultation with the Department of Taxation, shall annually determine the information necessary to provide a quantitative and qualitative assessment of the outcomes of the tax credit.

Every taxpayer, no later than the last day of the taxable year following the close of the taxpayer's taxable year in which the credit is claimed, shall sub-

mit a certified written statement to the Department of Agriculture. Failure to provide the information shall result in ineligibility and a recapture of any credit already claimed for that taxable year. The amount of the recaptured tax credit shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs.

Notwithstanding any law to the contrary, the statement submitted by the taxpayer shall be a public document.

CERTIFICATION OF CREDITS BY THE DEPARTMENT OF AGRICULTURE

The Department of Agriculture shall:

- (1) Maintain records of the total amount of qualified agricultural costs for each taxpayer claiming a credit;
- (2) Verify the amount of the qualified agricultural costs claimed;
- (3) Total all qualified agricultural costs claimed; and
- (4) Certify the total amount of the tax credit for each taxable year.

Upon each determination, the Department of Agriculture shall issue a certificate to the taxpayer verifying the qualifying agricultural costs and the credit amount certified for each taxable year. For a taxable year, the Department of Agriculture may certify a credit for a taxpayer who could have claimed the credit in a previous taxable year, but chose not to because the maximum annual credit amount was reached in that taxable year.

The taxpayer shall file the certificate with the taxpayer's tax return with the Department of Taxation. Notwithstanding the Department of Agriculture's certification authority, the Director of Taxation may audit and adjust certification to conform to the facts.

Notwithstanding any other law to the contrary, the information required by the Department of Agriculture as described in this section shall be available for public inspection and dissemination under chapter 92F, HRS.

If in any taxable year the annual amount of certified credits reaches \$7,500,000 in the aggregate, the Department of Agriculture shall immediately discontinue certifying credits and notify the Department of Taxation. In no instance shall the Department of Agriculture certify a total amount of credits exceeding \$7,500,000 per taxable year. To comply with this restriction, the Department of Agriculture shall certify credits on a first come, first served basis.

The Department of Taxation shall not allow the aggregate amount of credits claimed to exceed that amount per taxable year.

The Department of Agriculture shall cease certifying credits after the fourth taxable year following the taxable year during which the credits are first claimed; provided that a taxpayer with accumulated, but unclaimed, certified credits may continue claiming the credits in subsequent taxable years until exhausted.

The Request for Cost Certification for Claim of the Important Agricultural Land Qualified Agricultural Cost Tax Credit may be obtained from:

Department of Agriculture
1428 S. King Street
Honolulu, HI 96814
Attn: Planning Office

Telephone: (808) 973-9466

E-mail: hdoa.planning@hawaii.gov

Website: hdoa.hawaii.gov